

President Donald J. Trump
The White House
Washington, DC 20500

May 28, 2020

Dear President Trump:

I accepted your appointment as a member of the American Workforce Policy Advisory Board co-chaired by Ivanka Trump and Secretary Wilbur Ross because I have a deep interest in helping Americans and American businesses thrive economically. But now, in this post-COVID period when we are re-opening our country and getting people back to work, I write you today to offer SHRM's unique expertise and perspective as you consider possible executive actions originally contemplated in your April 22, 2020, Proclamation Suspending Entry of Immigrants Who Present Risk to the U.S. Labor Market During the Economic Recovery Following the COVID-19 Outbreak.

SHRM is the premier professional organization for HR, representing over 300,000 human resource professionals and business executives worldwide with more than 575 affiliated chapters in the U.S. As American businesses of all sizes rise to the challenge of keeping their workers safe and employed, SHRM is equipping members with the knowledge and resources necessary to navigate the complexities of operating in a pandemic.

Returning to work will require employers to make many tough decisions, including where to find talent for critical positions in health care and STEM. While the April 22 proclamation specifically halted immigrant entry into the U.S. for a period of 60 days, it also contained the following provision addressing possible future nonimmigrant entry restrictions:

. . . the Secretary of Labor and the Secretary of Homeland Security, in consultation with the Secretary of State, shall review nonimmigrant programs and shall recommend to me other measures appropriate to stimulate the United States economy and ensure the prioritization, hiring, and employment of United States workers.

Many of our members manage human resources for businesses that hire and employ foreign nationals, either as sponsored employment-based immigrants and nonimmigrants, or otherwise as aliens authorized to work. As part of our effort to support our membership, we consistently monitor and analyze various aspects of the U.S. labor market, while also listening closely to our members' own experiences supporting U.S. businesses of all types and sizes.

These are challenging times for U.S. workers, as the U.S. experiences unprecedented unemployment levels. SHRM honors your goal "to stimulate the United States economy and ensure the prioritization, hiring, and employment of United States workers," and both SHRM and its members hope to see unemployed U.S. workers returning to gainful work as soon as possible.

In support of your directive to review the potential relationship between nonimmigrant programs and re-employment for post-COVID jobless workers, we believe that it is necessary to investigate the occupational composition of sponsored nonimmigrant workers expected to arrive in the U.S. in the near future in comparison to the occupational composition of the post-COVID unemployed workforce. This data also needs to be considered in terms of occupations where demand actually appears to be increasing, such as computer-related professions. It is also important to share the insights of our member human resources professionals about the likely impact of a halt in sponsored nonimmigrant entry into the U.S. of any extended duration.

Occupational Data: Halt to Sponsored Nonimmigrant Entry Would Not Result in Vacancies that Post-COVID Jobless Could Fill

The potential impact of entry restrictions varies widely based on the visa category involved. As such, it is important to distinguish between workers in highly skilled occupations and those in low-skilled occupations.

Highly Skilled Workers

Of particular concern to our members are nonimmigrant entry restrictions for skilled workers such as those in Optional Practical Training (OPT) positions and those holding H-1B and L-1 visas. For example, although overall unemployment across industries and occupations is up, unemployment rates are currently lower for occupations that employ the greatest number of H-1B visa holders.

Bureau of Labor Statistics April 2020 unemployment rate estimates demonstrate that those in management, professional and related occupations (i.e., high-skill occupations) are currently experiencing lower unemployment rates (6.2% - 8.8%) compared with those in other occupations. Notably, the occupations with the highest unemployment rate right now are service occupations at 27.1%.

In contrast, the top two occupational categories represented by approved FY19 H1-B visa petitions fall under the BLS management, professional and related occupations category mentioned above. According to U.S. Citizenship and Immigration Services, of the 387,492 approved H-1B petitions in FY19 where occupation was known, 256,226 (66.1%) were in computer-related occupations and 39,070 (10.1%) were in architecture, engineering and surveying occupations.

A May 18 article written by a *Forbes* contributor drilled further into BLS data demonstrating that, in fact, unemployment has **decreased** in the occupations that predominate among H-1B visa-holders.

U.S. professionals in computer occupations (the same occupations as most H-1B visa-holders) had a lower unemployment rate in April 2020 than in January 2020—2.8% vs. 3%—a decline of approximately 7% or 0.2 percentage points, according to the Bureau of Labor Statistics' Current Population Survey. Employment numbers can fluctuate from month-to-month, but the big story is that, due to continued demand for their skills, professionals in computer occupations have fared much better in the U.S. labor market than individuals in other occupations.

At the same time the unemployment rate for professionals in computer occupations declined to 2.8% in April 2020, the unemployment rate for individuals in all other occupations increased to 15%, according to the Bureau of Labor Statistics.

In FY 2019, 66% of H-1B beneficiaries were in computer-related occupations, according to [U.S. Citizenship and Immigration Services](#). The National Foundation for American Policy analysis tracked the occupations most common for H-1B visa holders and included computer systems analysts, electrical and electronics engineers, software developers and several others.

The article further observed that the COVID-19 pandemic may itself be driving high demand for professionals in computer occupations as more U.S. workers discharge their duties remotely, a trend that many forecast will grow rather than shrink.

Lower-Skilled Workers: H-2B

As for lower-skilled workers, BLS April 2020 unemployment rate estimates show that the leisure and hospitality industry currently has had the highest unemployment rate (39.3%). Additionally, the BLS April 2020 Employment Situation report notes that “In April, employment in leisure and hospitality plummeted by 7.7 million or 47 percent. Almost three-quarters of the decrease occurred in food services and drinking places (-5.5 million). Employment also fell in the arts, entertainment, and recreation industry (-1.3 million) and in the accommodation industry (-839,000).”

We note, however, that the H-2B category requires labor certifications and recruitments as intrinsic elements in ensuring that U.S. workers are not displaced, meaning that entry restrictions would end up adversely affecting employers who have already demonstrated that they do not have U.S. workers available to them in adequate supply.

The Human Resources Community Expresses Alarm at Possible Nonimmigrant Restrictions

From their own experience, our members have consistently advised us that restrictions on high-skilled nonimmigrant entry would be potentially devastating to their ability to grow their businesses and drive innovation. The data shared above with respect to extremely low unemployment levels in computer-related occupations very closely mirror the feedback that we consistently receive from our members.

Our members have similarly signaled alarm at the prospect of any curtailment of the Optional Practical Training program. One of our members shared the following:

The OPT program serves largely as a pipeline for talent in the U.S., also most often for our engineering department. Our on-campus recruiters have shared with us that at the top-tier schools where they recruit, the vast majority of computer science/engineering students are foreign students who rely on OPT to work in the U.S. after graduation. In 2019, we had roughly 45% of software engineer training class hires that were in need of OPT work authorization. Without support of OPT work authorization, we would likely hire 45% less people that would be contributing to engineering work as we can't find enough qualified U.S. workers to fill these positions.

Another member expressed similar sentiments and shared that eliminating the OPT program or the H-1B visa programs would have “a devastating effect” on their ability to maintain their most advanced manufacturing facilities in the U.S. and would undermine efforts to continue reducing reliance on overseas facilities. The member added, “We would lose economically, intellectually and culturally if our policies force these students to leave and go to other countries and companies that compete with U.S. companies.”

The importance of the OPT program for companies requiring highly skilled workers is reflected in the high proportion of foreign national graduates in STEM fields from U.S. universities. Occupational data has shown that there is consistently an insufficient number of native students graduating in such fields that fill the talent pipeline that U.S. companies require. Such data clearly corroborates the deep concern our members have expressed about restrictions to the OPT and other nonimmigrant programs.

The Role of Workforce Development

To remedy the conditions that have driven unemployment of U.S. workers, SHRM is committed to continuing to work with you to support your priority to promote workforce development in the U.S. According to BLS data, COVID-driven unemployment is concentrated among those who either have not completed high school or those whose highest educational attainment is a high school diploma. Such workers’ concentration in low-skilled service occupations as described elsewhere in the BLS data dramatizes the need to equip them with the education and occupational training that results in opportunities to secure the sorts of positions that offer them greater professional stability and higher income.

Conclusion

As the leading global organization representing over 300,000 human resources professionals in more than 165 countries, SHRM shares your interest in acting to protect U.S. workers and promote economic recovery and growth based on the best data available. While we enthusiastically support workforce development measures that would improve opportunities for U.S. workers, we note that both available data and the on-the-ground experiences of U.S. businesses show that any curtailment of the availability of workers under higher-skilled immigration categories would harm rather than help the U.S. economy.

Very truly yours,



Johnny C. Taylor, Jr.
Chief Executive Officer
Society for Human Resource Management

Cc: Larry Kudlow
Jared Kushner
Wilbur Ross
Ivanka Trump